

ISSUE DATE: August 2, 1999

DOCKET NO. P-421/C-98-786

ORDER DENYING RECONSIDERATION AND CLARIFYING EARLIER ORDER

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Edward A. Garvey  
Joel Jacobs  
Marshall Johnson  
LeRoy Koppendrayer  
Gregory Scott

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of a Formal Complaint by the  
Members of the Minnesota Independent  
Payphone Association and Choicetel, Inc.  
Against U S WEST Communications, Inc.  
Regarding Unbundling the Network Elements  
of Automatic Number Identification

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**PROCEDURAL HISTORY**

On June 9, 1998 the members of the Minnesota Independent Payphone Association (MIPA) and Choicetel, Inc., a competitive local exchange carrier, filed a complaint claiming that U S WEST Communications, Inc. was violating a Commission Order by refusing to unbundle the network elements making up Automatic Number Identification service.<sup>1</sup> The Complaint requested the following relief:

- (1) an Order requiring U S WEST to unbundle and offer on a tariffed basis ANI ii 70, a code identifying a phone line as a payphone line; and
- (2) an Order requiring U S WEST to refund to MIPA members and Choicetel the difference between their rates following unbundling and the rates they are currently paying; or
- (3) in the alternative, an Order requiring U S WEST to offer Public Access Line service, a service which includes ANI ii 70, for resale at the wholesale discount set by the Commission in arbitration proceedings under the federal Telecommunications Act of 1996, 47 U.S.C. § 252.

On February 4, 1999 the Commission issued an Order granting complainants the relief they had requested in the alternative -- an Order requiring U S WEST to offer its Public Access Line service at the wholesale discount applicable to the Company's other services. On public safety

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<sup>1</sup> The Order cited was In the Matter of a Formal Complaint of the Members of MIPA Against U S WEST Communications, Inc., Docket No. P-421/C-95-1036, ORDER REQUIRING PROVISION OF 1FB TO COCOT PROVIDERS FOR RESALE AND THE RETENTION AND UNBUNDLING OF PAL (November 27, 1996).

grounds, the Order also required U S WEST to stop supplying one-party flat-rate business service to payphone providers for use in providing public payphone service and to substitute Public Access Line service instead.

On February 16, 1999 U S WEST filed a Motion to Reconsider, asking the Commission to do the following:

- (1) reverse its decision to apply the 21.5% wholesale discount to Public Access Line service, instead applying no discount or, in the alternative, a 9.8% discount;
- (2) find that any discount applicable to Public Access Line service was not available to complainants;
- (3) modify the Order's requirement to restrict payphone providers to Public Access Line service by requiring payphone providers to identify payphone lines, by authorizing U S WEST to automatically convert lines it knows to be payphone lines, and by explicitly noting that U S WEST will no longer provide one-party flat-rate service for use in providing public payphone service;

U S WEST also requested miscellaneous clarifications and corrections to the February 4 Order.

On February 24, 1999 complainants filed a petition for reconsideration of the decisions not to unbundle ANI ii 70 service and to prohibit the use of one-party flat-rate business service for payphone lines, should the Commission grant U S WEST's request to eliminate or reduce the wholesale discount on Public Access Line service. Complainants also requested two clarifications to the February 4 Order.

On April 22, 1999 the Department of Public Service filed comments recommending denying the U S WEST petition and making the two clarifications requested by complainants.

On July 27, 1999, both petitions came before the Commission. At that time U S WEST stated it did not oppose the two clarifications requested by complainants.

### **FINDINGS AND CONCLUSIONS**

The Commission finds that U S WEST's motion to reconsider does not raise significant new issues, point to new and relevant evidence, expose errors or ambiguities in the original Order, or otherwise persuade the Commission that it should rethink its original decision. The Commission concludes that the original decision is the one most consistent with the facts, the law, and the public interest. The original decision will be affirmed.

Since the original decision will be affirmed, complainants' reconsideration request is moot. The Commission will, however, make the two clarifications that were requested by complainants,

concurrent in by the Department of Public Service, and unopposed by U S WEST.

The Commission will clarify that the 90-day deadline in ordering paragraph one of the February 4 Order will run from the date of this Order, not from the date of the original Order. The parties have correctly pointed out that changes of this magnitude normally occur after any reconsideration petitions have been addressed.

The Commission will also clarify that the prohibition against providing one-party flat-rate business service for use in public payphones applies not just to independent payphone providers, but to U S WEST's payphone division as well. Clearly, permitting any payphone provider to use one-party flat-rate business service would raise all the public safety issues the original Order was intended to resolve. Although the U S WEST payphone division currently uses only Public Access Line service, practices change over time, and the safest course is to clarify that this practice must continue.

The Commission will so order.

### **ORDER**

1. The Motion to Reconsider filed by U S WEST Communications, Inc. is hereby denied.
2. Ordering paragraph one of the February 4 Order is hereby amended to read as follows:

*Within 90 days of the date of this Order or the Order resolving any request(s) for reconsideration filed in this case, whichever is later, U S WEST Communications shall stop providing 1 FB service to independent payphone providers planning to use it to provide public payphone service and shall restrict customers buying service for that purpose to PAL service. U S WEST shall use only PAL service in its own payphone operations. U S WEST shall work with independent payphone providers to prevent service disruptions and to minimize any confusion and inconvenience resulting from the change.*

3. In all other respects, the February 4 Order is affirmed.

4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

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